

**Albemarle County Planning Commission
FINAL Minutes August 3, 2021**

A regular meeting of the Albemarle County Planning Commission was held on Tuesday, August 3, 2021 at 6:00 p.m. via Zoom.

Members Attending: Julian Bivins, Chair; Rick Randolph; Daniel Bailey; Corey Clayborne; Jennie More; Tim Keller; and Luis Carrazana.

Members Absent: Ms. Firehock.

Other Officials Present: Charles Rapp, Director of Planning; Bart Svoboda, Zoning Administrator/Director of Zoning; Amelia McCulley, Deputy Director of Community Development; Andy Herrick, County Attorney's Office; Carolyn Shaffer, Clerk to the Planning Commission; Cameron Langille, Principal Planner; and Scott Clark, Senior Planner.

Call to Order and Establish Quorum

Mr. Bivins said the meeting was being held pursuant to and in compliance with Ordinance No. 20-A(16), "An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster." He said opportunities for the public to access and participate in the electronic meeting will be posted at www.albemarle.org on the Community County Calendar, when available. Ms. Shaffer called the roll. All Commissioners indicated their presence. Mr. Bivins established a quorum.

Other Matters Not Listed on the Agenda from the Public

There were none.

Consent Agenda

Mr. Keller moved to approve the Consent Agenda. Mr. Bailey seconded the motion, which passed unanimously (6-0). Ms. Firehock was absent.

Public Hearing

Mr. Bivins said there were a number of ag/forest items to review and asked Mr. Clark to explain generally what the nexus between the ag/forest designation and conservation easements.

Mr. Clark stated that the state-enabled conservation easements and open space easements and the agriculture and forestal program are aimed at generally the same thing: rural land conservation. He said there is no real tie between them, and the enabling authority at the state level is entirely separate, with the programs existing separately from each other. Mr. Clark noted that there are quite a few parcels in rural Albemarle in both—either because they were added to the district some time ago and the owners have since decided to do a permanent form of conservation, or because ownership has changed, etc. He commented that the fact that they overlap does not in any legal way tie them together.

Mr. Bivins thanked Mr. Clark for the explanation. He said that in looking for clarification, he should turn down his caution at the article written by Alison Brody that was in the *Daily Progress* on July 24 that basically painted a poor image of conservation easements. He said that he should not be concerned that there is any bleed-over into what is going to be discussed this evening.

Mr. Clark responded that it's true there is no bleed-over, and he would suggest that Mr. Bivins turn down his caution on that article because he thinks the headline especially was very misleading.

Mr. Bivins thanked Mr. Clark for his response and said that is why he goes to someone who spends time in the woods and can help him turn down his anxiety. He said that if others on the Commission had not yet seen the article, it was in the *Daily Progress* on July 24 by Alison Brody Champion. He added that since they had been told it was okay to not be too concerned, he recommended that members read the article.

AFD2021 – 01 Henley Sugar Hollow Addition

Mr. Clark said there are five agricultural-forestal district items to be presented, with three requested additions and two district reviews. He said the first addition is the proposed Henley addition to the Sugar Hollow District. He said the green area on the presented map is the Sugar Hollow District, with the red area being the proposed addition. He stated that he proposed addition is a parcel of 19 acres, which is almost entirely made up of important soils and has five development rights, so therefore is qualified to join the district. He said the AFD Committee did recommend approval of this addition.

AFD2021 – 02 Neff Moorman's River Addition

Mr. Clark said the Neff property is proposed to join the Moorman's River District. He said this is one of the largest districts and can be seen in green on the presented map, with the proposed addition shown in red. He said that this addition is three parcels with 111 acres of important soils. He said each parcel has multiple development rights and so it is a valid addition to the district. He said that the AFD Committee did recommend approval of the proposed addition.

AFD2021 – 03 Maddock Jacob's Run Addition

Mr. Clark said the Maddock property for Jacob's Run is 69 acres with 51 acres of important soils and one development right, which is enough to qualify it to join the district. He noted that people have occasionally asked about additions like this one being so far from the district. He said the gap seen between the Maddock parcel in red (on the displayed map) and the rest of the district shown in green was in the original core of the district, which is how the lines are drawn. He stated that those parcels have since withdrawn, but the core does not change. He said that previously, joining parcels had to be within a mile of the core; the code now says they should be within a mile of the core but can be farther if agriculturally significant, which is the case with the Maddock parcel. He said in either case, this would be a valid addition to the Jacob's Run District.

AFD2021 – 04 Hatton District Review

Mr. Clark said that every 10 years, these districts come up for a check by the Board of Supervisors to ensure that they are still valid, appropriate, and in sufficiently intact shape. He said this is to make sure they still make sense as a conservation district. He said it is also the one time that landowners are able to withdraw from the district by right with no penalty or analysis. He commented that it is simply a matter of writing to the County and asking to be removed during this review, which he said does happen.

Mr. Clark said that the Hatton District review is on the James River and the Warren area and is an 860-acre district. He stated that nearly all of this district has important soils for agriculture and is all in the rural areas. Mr. Clark said there is one withdrawal request of a parcel of 86 acres, marked by the crosshatch on the displayed map. He said the owners have stated that they intend to rejoin the district after dividing out a small parcel, and many may remember that these districts prevent the creation of lots of less than 21 acres—except in the case of family divisions. He said

this property is owned by an LLC, so by definition is unable to do a family division; in any case, the two or three-acre parcel that they are proposing to remove would not qualify as a family division. He said the owners hope to do that division and then rejoin the district with the remaining 84 or 83 acres.

Mr. Clark said there are no parcels in this district that are in the open space tax category, therefore there is no concern over the recent policy to notify parcels of potential removal in five years. He said this allows this district to be renewed for 10 years.

AFD2021 – 05 Totier Creek District Review

Mr. Clark said the Totier Creek District lies just north of the Hatton District in the area south of Esmont and Porters and stretching to the east and north toward Keene. He said that it is a much larger district with 6,700 acres. He said there is one request to withdraw, marked in crosshatch on the map. He stated that this is a parcel with no parcels in the open space tax category; therefore, there is no need to be concerned with the notification policy, and the review period is 10 years. He noted that the committee recommended renewal for 10 years, with the withdrawal for the previous district. He said the withdrawal request for Totier Creek came in after the committee meeting, but in any case, the recommendation was for renewal for a 10-year period.

He said he would stop to take questions, then would wait until the public hearing has been held and put the motions up for vote.

Mr. Bivins thanked Mr. Clark and asked the group if there were questions.

Mr. Clayborne asked Mr. Clark to reexplain what is meant by “the number of development rights remaining.”

Mr. Clark responded that in 1980 when the County went through a comprehensive rezoning, all of the parcels that existed on December 10 of that year were granted five development rights as a one-time thing. He said those are not generated through subdivision. He stated that they were granted once and no more were ever created, and they are for lots of less than 21 acres. He noted that each parcel has those, and as parcels are surveyed and subdivided, those rights are tracked on the plots. He said that this is treated as a commodity that travels around with pieces of the land and gets divided into two here and three there as the parcels get subdivided. He said this is something that is always tracked through the plotting process.

Mr. Clayborne thanked Mr. Clark for his response.

Mr. Randolph said that one thing he noted is as each one of these districts are reviewed, they are done so as separate and unique districts. He said he thought it would be helpful if in the future, Mr. Clark could provide the Commission with some sense of all the acreage that is in each district, what the percentage is in conservation easements. He stated that the Hatton District review constitutes 20.6% of the properties are in conservation easement, which is a very low number. He noted that this is really the basis of the Board’s desire to move to an every-five-year review on ag/forestal, to try and invigorate the level of conservation easements. He commented that this was, so people didn’t park properties in ag/forestal for a period of time, reap the benefits, then decide to move on. He said he knows there are tax disincentives that make that more difficult, but he was still struck that it’s only 20.6%.

Mr. Randolph said the Commission is also looking at the Totier Creek District momentarily, and without taking anything away from that discussion, that district is almost 50%, with 49.7% of all the acreage in conservation easement. He commented that this is an improvement over 20.6%.

Mr. Randolph reiterated that it would be helpful in the future if Mr. Clark could provide the Planning Commission with a breakdown on where things stand with each one of the districts in the County. He said this would give them the basis of comparison to know if there is an increase or decrease of property in conservation easements. He noted that this would then allow them to measure and track the changes over a five-year period at a Planning Commission level and the next level as well.

Mr. Clark said that his team does provide the easement acreages for each district under review. He asked if Mr. Randolph would like to see the easement acreages for all 28 districts each time, they do a review of one district.

Mr. Randolph said it might be nice to have an average as something to go by. He said he is not asking to do a complete chart of all 28, but it would be nice to have some basis of comparison. He also asked how Albemarle is doing as a county versus other counties that have similar ag/forestal programs. He said it's nice to think things are going well, but the comparative figures are not available to really weigh that in a meaningful and empirical manner.

Mr. Clark responded that he believes the stats can be tracked down for comparison with other counties without too much trouble. He said he would like to suggest the question of ag/forestal districts and conservation easements be separated. He said the Board's concern in the last few years with the ag/forestal district was not whether or not the land could be under easement, but whether or not the land was in the open space tax rate and getting a conservation-related tax break—but was not actually land that had the potential to be developed. He said that basically allowed for a conservation-related tax break for doing nothing. He emphasized that these were two separate issues.

Mr. Clark said his team does track conservation easements held by the County and all of their holders in the County. He said if interested, he would be doing a presentation on the County easements on September 15, 2021 with the Board. He said it is worth knowing for each district under review how much is under easement, but it's confusing to tangle the two together, and there are a lot of worthwhile stats about easement properties that have nothing to do with the AFDs.

Mr. Randolph said he understands what Mr. Clark is saying and that he is mixing apples and oranges, but he does think it's useful to know when looking at the ag/forestal district, how much of that property is really committed legally in perpetuity—understanding that the property owner can sell that property on the conservation end.

Mr. Clark said he would continue doing the small amount of reporting that has already been done on that and would find some consistent ways to give a wider view, which has already been discussed in the Planning Division.

Mr. Randolph thanked Mr. Clark.

Mr. Keller commented that he understands Mr. Randolph's perspective from the Commission's many previous discussions, and the point that Mr. Clark is making about keeping the two separate. He said that they really do have different enabling legislation, with one focused more on agriculture and forestry and the other being more about rural land protection—a nuanced

difference. He said he thought what would really be helpful in each district is to see the amount of land that is protected due to its forestry classification, the amount of land protected due to its agricultural classification, and the amount of land due to its open space qualities. He commented that he thinks that is the part that directly relates because those are the three components the state allows the county to do with an ag/forestal classification. He said Mr. Clark has done this in some past presentations. He said he thinks it would be interesting to see the aggregate number of development rights that are set aside in the district by the designation, and they are set aside at least for the time period that that particular property is within this category.

Mr. Clark said he appreciates having the guidance, as his team has been talking about trying to improve the annual reporting on conservation programs in general. He said this could be folded in with that and be a useful tool.

Mr. Randolph thanked Mr. Keller for his suggestions.

Mr. Bivins said he would like to add his support for looking at the three different tax types. He said he was struck by the climate presentation to the Supervisors. He said the number that was used was 4.2% of rural land engaged in agribusiness. He said if there is really all of this rural land, but there is not a lot of farming on it, that is something that could be discussed for greater understanding.

Mr. Clark said he does not know where that number came from and is interested to find out. He said that is a pretty limited definition of agribusiness if there is a number that low. Mr. Clark stated that he appreciates the Commission's interest in these rural area issues. He said there was a long period in the past where much of the idea of the ag/forestal reports was to get through them quickly, and if the desire is to have more complete reporting on statistics and the issues facing the district, he would be happy to look into providing that information.

Mr. Bivins said his other question is whether it would be helpful if the Hatton District and the Totier Creek District were combined since they seem to share a border and some boundaries. He said he is posing the question if it would be useful, and he does not know why they are not blended and why they are dealing with two different districts.

Mr. Clark said that when the districts were created, the designations were not created by the County. He said that not even the names are created by the County; they are created by volunteer groups of landowners who either individually or through cooperative effort pull together the 200-acre minimum needed to start a district. He said back in the day when there were many new districts being formed, it was up to these community groups and cooperating landowners to choose where to put the districts and what to call them. He stated that he would not say it makes any significant difference for the County operations to combine nearby districts, but it might cause a lot of confusion for people who identify with the district they are in, as there is a community aspect to that. Mr. Clark added that he does not think there is a gain in combining the districts.

Mr. Bivins commented that it's just one more district to keep track of, as opposed to consolidating them and having one fewer district.

Mr. Keller said it comes down to the enabling legislation and the way a district is constructed and built out from a center point and originating element, so there would have to be a change in the Virginia enabling legislation. He said Mr. Bivins could talk to counsel about putting it on their priority list or not. He said in terms of agribusiness, there are definitions for forestry and horticulture, and there is no way that that figure can be accurate given the amount of land that is

in pine plantation in the County. He said there might be conservation issues that would be challenged in terms of the way the state manages it, in terms of runoff and hydrology. He said in terms of agribusiness and reporting, the last ag census for the Commonwealth of Virginia shows that is not an accurate figure whatsoever.

Mr. Bivins said that he is glad he could stir up some dust, and it's helpful for the Commission to validate that number.

Mr. Bivins opened the public hearing.

Mr. Neil Williamson with the Free Enterprise Forum stated former Secretary of Agriculture Todd Haymore often said that agriculture is Virginia's biggest business, by far. Mr. Williams said he takes huge issue with the number 4.5% for agribusiness and fears this is something to create a wedge in agribusiness of certain types. He said that more than 95% of the County's land mass is in rural areas. He commented that this is not park land and too often is viewed that way—it is workable land that people on tractors are working every day.

Mr. Williamson said that when looking at the origin of ag/forestal districts, landowners came together voluntarily to give up property rights for a period of time. He said that he also takes issue that ag/forestal districts aren't worth as much as conservation easements because they are not in perpetuity; the land is protected and is regulated. He stated that the question for the Planning Commission is how much land, in this time of needing affordable housing and having a lack of development area land, is the right amount of land to be perpetually protected. He asked if the Planning Commission is ready to take a look at that and perhaps look at how much would be appropriate to be perpetually protected, perhaps even purchased through a PDR program. He added that Albemarle has a very solid one with the ACE program versus having someone voluntarily give it up.

Mr. Williamson commented that as he has mentioned to this group many times, there is no public hearing for a conservation easement, but every five or 10 years, ag/forestal landowners must go through a public hearing process. He asked the Commission why and what the purpose is, and part of the reason is the restriction to not subdivide a small parcel. He said development rights that are set aside have value, and they are giving those rights up. He said that it is important to recognize the rural area community is doing a great deal to support the rural area both through agribusiness and through voluntary conservation easements and voluntary ag/forestal districts. He thanked the Commission for the opportunity to speak.

No other members of the public came forward to speak.

Mr. Bivins closed the public hearing. He asked Mr. Clark to guide them through the voting process needed, unless there were other comments or observations from the Commission.

Mr. Clark shared his screen so the Commission could see his motions.

Ms. More moved to recommend approval of AFD202100001 Henley Sugar Hollow Addition. The motion was seconded by Mr. Keller. The vote was passed unanimously (6-0).

Mr. Keller moved to recommend approval of AFD202100002 Neff Moormans River Addition. The motion was seconded by Mr. Randolph. The vote was passed unanimously (6-0).

Mr. Bailey moved to recommend approval of AFD202100003 Maddock Jacob's Run Addition. The motion was seconded by Ms. More. The vote was passed unanimously (6-0).

Mr. Randolph moved to recommend renewal of the Hatton district for a 10-year period, with the requested withdrawal. Mr. Keller seconded the motion. The vote was passed unanimously (6-0).

Mr. Randolph moved to recommend renewal of the Totier Creek District for a 10-year period, with the requested withdrawal. The motion was seconded by Mr. Keller. The vote was passed unanimously (6-0).

Mr. Keller said he would like to call to everyone's attention once again, the agricultural census which is done every so many years with five-year updates. He said the last one that is relevant for the community is from 2017 and can be found at NASS.USDA.GOV and shows the number of acres in different types of farmland, like grassland or pasture, and different kinds of cultivation. He said it is available historically going quite far back. He said table 8 refers to land and farms. He said there are also maps of what is being produced and where.

SP202100006 Ivy Landfill Solar Facilities

Mr. Clark said this presentation is a public hearing for the Ivy Landfill Solar Facility and said Ms. Amberli Young from Community Power Group was present to speak on behalf of the applicants. He said she has some of her colleagues with her as well.

Mr. Clark said this is the third of the special permit requests in the County for solar energy generation facilities in the rural areas. He said this one is unlike the others in that the proposal is to locate the facility, which would have about 15 acres of generating panels, on top of the existing Ivy Landfill. He said the proposal includes three separate areas of photo-voltaic panels on top of the capped landfill for a total of 3.1MW generating capacity, occupying only 15 acres of the 300-acre site. He said this is to be built on a closed-capped landfill with a design approach that essentially sits on the surface, rather than being dug into a foundation underground as was seen with the previous two applications.

Mr. Clark said to refresh everyone's memory, the site is outlined in red (on the presented map) of the landfill of the materials utilization center with the entrance on Dick Woods Road and bordering I-64 to the north and Broad Axe Road to the west. He advanced to the next slide and said it was a conceptual plan of the proposed facility that gives a pretty good sense of scale. He stated that the buildings and intake area are to the bottom of the image, and the blue areas on the capped landfills are where the solar panels would be. He said the central road that comes through the landfill for access and maintenance can be seen on the image. Pointing out inverter boxes on the slide, he said are the converters that take DC power from the panels and help get it ready for AC distribution across the power lines. He said those can be seen grouped toward the center of the landfill area and are important since they are the main generators of noise impact from these solar facilities.

Moving to the next slide, Mr. Clark said this is a zoomed-in view of the northern section of the conceptual plan. He said again that the inverter boxes can be seen and there is a section of above-ground conduit running over the surface of the landfill, as it is a capped landfill and cannot be excavated or dug into.

Mr. Clark moved to the next slide and said the southern portion is closer to the office buildings and intake area. He said there are two more areas of panels in the area where the power coming from the panels is connecting to the existing transmission lines that come through the site.

Mr. Clark said he would run through a quick summary of the special use permit criteria from the zoning ordinance. He said the first item is substantial detriment to adjacent properties. He noted that under noise impacts, it has been found that the inverters are compared to residential AC units. He stated that in this case, those inverters are going to be about 1,500 feet or more from existing dwellings, and with that distance from something producing 60-70 dB, there will be well under 10 dB by the time it reaches the nearby dwellings. He said it would be a scarcely noticeable level of noise and is only going to be happening during the daytime, as the panels do not operate at night. He said this is not considered to be a substantial detriment to the nearby properties.

Mr. Clark stated that regarding visual impacts, the applicants did extensive work on visibility of the panels and glare produced by the panels on surrounding properties, surrounding roads, and near I-64's entrance corridors—which was of special concern. He said the initial analysis that took only topography into account showed that there could be visibility from surrounding properties, and there is an extensive amount of vegetation both on the site and the surrounding sites, with no significant visual impacts found. He noted that the glint and glare study indicated no impacts on roads or dwellings, and the applicants could talk about this in more detail.

Mr. Clark said that for a special use permit to be in “harmony with the purpose and intent of this chapter” could be a challenging item for a utility generation site. However, he said, while this site is in the rural areas, it is already an existing public facility—a landfill—and has no real potential for future agricultural or forestry use on any timescale that can be foreseen. He said that it is located in the watershed of the South Fork of the Rivanna Reservoir and is on an existing public use site. He noted that this would be putting impervious panels on top of an impervious landfill cap, and the area of impervious surface would not change, but the character of the runoff might change to a minor degree, which could be handled during the site plan review.

Mr. Clark said that limited service delivery is not an issue here. He said that regarding conservation of natural, scenic, and historic resources, he would repeat what he said with the last slide regarding visibility. This is a landfill, so there are no significant natural resources on the site to be impacted.

Mr. Clark stated that with public health, safety, and general welfare, the real issue of substance is to have an appropriate emergency response plan for any fires or other emergencies associated with one of these facilities. He said that as with the previous special use permits, his team is recommending a condition of approval for the applicants to supply training to the Department of Fire and Rescue. He noted that VDOT also reviewed this for road impacts and found it to be acceptable, and there was no real traffic generation for the site once it's in operation. He said there is traffic for the construction, which is fairly brief, and this is only a 15-acre panel facility. He said that parking would all be accommodated within the site, and after completion, there would be nothing generated except for occasional maintenance visits.

Mr. Clark moved to the topic of consistency with the comprehensive plan. He said that the plan does say the County should promote conservation and efficient use of energy resources, so allowing this kind of renewable energy source is consistent with that requirement. He stated that the natural resources section of the plan is very focused on water resource protection—but given that this site is already disturbed and already impervious, there are minimal impacts or changes to water quality from this proposal. He added that both the natural resources section and the recently adopted climate action plan encouraged the County to support renewable energy resources, which this facility would do. He added that his team felt it was consistent with the comprehensive plan.

Mr. Clark mentioned that beyond the special use permit, as a utility facility providing power to the public grid, this proposal is subject to compliance with the comprehensive plan review by state law. He said that this is done for any such generating facility like this. He said that given comments from the previous slide, staff recommends that the Commission find it in accord with the comp plan. Mr. Clark stated that staff found three favorable factors, including the provision of a source of renewable power generation, compliance with the comprehensive plan, and no change to the already impervious site in terms of the runoff characteristics. He said there were no unfavorable factors found, and his team is recommending approval of the special use permit with the conditions as defined on the presented slide.

Mr. Bivins thanked Mr. Clark and asked the Commission if anyone had any questions at this point.

Mr. Clayborne said that the staff report makes reference to an “engineer” and a decommissioning piece of this. He asked if that should say “professional engineer,” as the term engineer is used very loosely.

Mr. Clark responded that this was not previously discussed, but it is a change that could be made fairly easily. He said that given that the plan would have to be reviewed and approved by the county attorney and the county engineer, he would think that they would expect that anyway. He said that if the Commission wanted to recommend that, his team could make that minor change.

Mr. Bivins thanked Mr. Clark.

Mr. Randolph said it was not clear where it says on page two, that “the solar panels will be installed on frames that rest on surface-mounted supports, rather than the typical underground concrete support blocks.” He said his recommendation would be that when this goes to the Board, there is much more explanation as to what “surface-mounted supports” look like, how they are configured, the material that they’re made of, and how they are actually secured to the ground. He commented about what had transpired in Scottsville the previous week with a microburst, with sudden intense winds and heavy rain. He said that he immediately thought about what would happen if a microburst hit this site and how these frames would hold the panels against intense high winds. He said that he thinks it would be useful to have diagrams and further explanation when this goes to the Board.

Mr. Clark stated that he appreciates that and said he himself is not a professional, or any other kind of engineer, so his description may have been somewhat insufficient. He said that fortunately, Ms. Young was present to speak to the applicants and can be described in more detail. He added that if after they see her information, they feel there is still a stronger presentation needed, he can certainly do that.

Mr. Bivins said that he imagines Mr. Clark will defer to the Community Power Group. He said that there were two things on the CPG website that he was interested in, including that this is a 2MW-power project. He stated that he would like some reconciliation between what is being presented here and what is presented on their website. He said that he would also like to see discussion around gassing with 10-ft clearances, and he assumes that’s because the site is off-gassing as it matures and has to off gas. He said if it’s going to off gas, he would like some idea of how flammable those gases are. He also asked how they were going to ground those structures so if they are struck by lightning, there is not also some sort of combustible event on Dick Woods Road.

Mr. Clark responded that he has not seen the version on the website, and all of the conditions that are presented to the Commission tonight are referring to the 15-acre, 3.1MW plan. He said that he's sure Ms. Young can address that variant. Mr. Clark said he shares Mr. Bivins' concern about the fire hazard from the methane off-gassing of the landfill, which of course is managed by the Rivanna Solid Waste Authority. He said as he understands it, that safety standard is reviewed and imposed by the Department of Environmental Quality when the proposed facility goes through their review, which generally follows the localities review. He said what he's heard from Ms. Young is the same as what Mr. Bivins found: that there are DEQBDQ-mandated offsets from the areas where the methane is being extracted from the landfill to ensure that there is not an immediate fire hazard. Mr. Clark said that he does not have an immediate answer on the grounding question but assumes Ms. Young can address that.

Mr. Bailey said two of the main power lines are above ground, and he understands this is a no-till site, but those are typically buried for safety reasons. He asked how robust these conduits were, or how they prevented the above-ground lines from being struck and what kind of safety considerations there were.

Mr. Clark said he doesn't think he's seen a specific design in the application for the overground conductor but is sure Ms. Young can discuss those details.

Mr. Bivins invited Ms. Young to speak.

Ms. Young stated that she is a senior project manager with the Community Power Group. She thanked the Planning Commission and Community Development staff, as well as members of the public, for taking the time to review their application.

Ms. Young reported that Community Power Group is based in Maryland and has about 2GW of solar PV in development across the U.S. She said they have a strong focus in the Mid-Atlantic, and all of their staff is located in either Virginia or Maryland. She said they also have extensive experience working on projects on landfills. She said they have a portfolio of projects, including five different sites on about 70 acres in Maryland, as well as another portfolio in Massachusetts. She commented that they are very familiar with the technical design implications of locating on landfills and are very excited to work closely with the RSWA, as well as DEQ, on some of those matters.

Ms. Young said that this project is comprised of three proposed solar facilities, each approximately 1MW of alternating current. She said that though the parcel itself is over 300 acres, this project—including the panels and inner connection area—is proposed to be on about 15 acres of that area. She stated that the electricity produced by the project would not be distributed to any specific meter within the area, but it would go into the distribution grid to provide clean energy to nearby homes and businesses. She noted that this is part of compliance with the Virginia Clean Economy Act that was passed in 2020, which directs utilities to procure solar on previously developed sites, as well as a large amount throughout the state.

Ms. Young said the Ivy Material Utilization Center (MUC) began its landfill operations in the 1960s and was acquired by the County of Albemarle and the City of Charlottesville shortly after that time. She said it operated for several decades before its final closure and capping in 2002; the site has an active solid waste permit with DEQ and goes through extensive monitoring.

Ms. Young said that Community Power Group won an RFP with RSWA in 2017 to develop these solar facilities. She said they have worked very closely with Rivanna and appreciate their support on this project.

Ms. Young stated that the design is for three 1MW solar facilities that would be installed on fixed-tilt racking. She reiterated that there would be several inverter units placed throughout the site, and they take efforts to locate those to the interior of the site as much as possible to minimize any potential noise impacts, as well as to make them easily accessible to maintenance.

Ms. Young said because they make a commitment to be extremely careful about no penetrations to the landfill caps, all of the conduit coming from the inverter panel locations will be above ground—up until a point in the southern part of the site where they are able to underground that to cross the driveway and reach the inner connection point. She said this is a Dominion utility pole existing on the site and can be found in the red area of the map, near the buildings and intake area.

Ms. Young shared a photo of an existing landfill facility that CPG constructed in Massachusetts. She said that as can be seen in the photo, these panels are installed on fixed-tilt racking, which is very common for a ground method solar facility. She said that instead of driving pile posts into the ground, they are simply attached or surrounded by a concrete ballast, so it sits entirely above the ground, and there are no ground penetrations needed. She said this is also a common practice on rooftop projects where it is not possible to penetrate the roof membrane. She stated that even at 70 or 80 feet in the air, it is still possible to provide enough concrete ballasts to secure those panels to a roof surface. She noted that they are using the same strategy here, where there is enough concrete applied to the base of the system that it won't shift or uplift during wind conditions. Ms. Young pointed out a small section of conduit run that is coming off the panels. She said this is the same thing that will run over the capped landfill areas down to the southern end of the site. She said it will be a metal conduit, sitting on top of a piece of concrete that will be spaced throughout the conduit; beneath that will be a material so if there is any shifting there won't be any disturbance to the ground.

Ms. Young said they haven't gone through the detailed engineering to determine the exact placement of that conduit, but that would be part of the site plan development as well as the permit with Virginia DEQ. She said this is to protect the landfill cap, and they would make DEQ and Rivanna very aware of where all of the material is going and what the operating conditions will be to protect the cap.

Ms. Young said there was a glint and glare study prepared to assess the potential impact for motorists along I-64 to the north, as well as Dick Woods Road to the south. She stated that they utilized a software tool called ForgeSolar, developed by the Department of Energy and the Federal Aviation Administration, to assess the potential for glint and glare of the solar facility—throughout the entire year to collect a year of sun positions, as well as the specific parameters of the project. She said that for the routes shown on the presentation and the specific parameters of the project, no glare was predicted.

Ms. Young moved onto the next slide and said CPG also pays close attention to what the potential noise output of the facility will be. She said that as Mr. Clark discussed, the typical noise output of the solar inverter is between 55-65 dB, which is similar to a dishwasher or residential air conditioning unit. She said as the distance increases, the sound dissipates. She said that because the closest residential facility is over 1,000 feet away, the noise is expected to be less than 10 dB, which also does not take into account any vegetation or obstructions that may be in the way.

between the noise produced and the observer in their home. She said the noise from these inverters is expected to be much less than current road traffic, or what could be expected on the MUC for their typical activities as a recycling center. She said the inverters go into stand-by mode at night when no power is being produced.

Ms. Young said as the next steps for this project if approved, CPG would go to site plan amendment and development, with an additional stormwater review to determine any potential impact from the facility on existing stormwater facilities onsite. She stated that CPG would also be going through a DEQ landfill closure permit amendment process; in which case, the DEQ would review the project and specific design parameters from detailed design documents to determine whether there is any potential impact for the landfill cap. She said CPG would be required to address those impacts before moving to construction.

Ms. Young reported that DEQ would also address the risks to the rest of the project and the current landfill byproducts, which include leachate and landfill gas. She said there are active and passive gas vents on the site, and over half of the capped facilities are construction waste, as opposed to municipal or household waste. She said that this produces less methane than what would be expected from a landfill that is entirely residential waste, but CPG is very aware of the methane production on this site. She said there would be detailed surveying of the location of those vents and calculations of vent output, and they would be locating the equipment in facilities an acceptable distance away from the fences. She added that CPG would also be pursuing building and electrical permits before they move to construction.

Ms. Young said the projects are under study for interconnection with Dominion, and that process can take a long time—with the potential for delays. She said they are also going through procurement with Dominion that could lead to some delays, but the expectation and hope is that this project will complete its permitting by the end of 2021 and move into construction by the end of Spring 2022. She said the typical construction period for a ground-mounted solar facility of this size is about two to three months. She said only a couple of weeks of that time period will be the heavy lifting in terms of receiving panels and materials to the site and using a forklift to move those panels to the construction area. She said that process is very quick because it's fairly formulaic, and the remainder of that time period would be dedicated to wiring, as well as inner connection at the utility pole. Ms. Young noted on a diagram some of the paved areas that would be utilized for construction parking and staging during that timeframe.

Ms. Young said she hoped she had answered some of the Commission's questions and welcomes any more from them.

Mr. Keller thanked Ms. Young for the presentation and the information about CPG's approach. He said that because the contours have been capped, there can't be land disturbance, so CPG has developed above-ground "boots" that the legs would fit it. He said his question is whether the length of the legs varies to keep the same angle or inclination of the solar panels—in other words, if the contour is dropping down across 15 panels or whatever are connected, and it drops down 10 feet, whether that meant there would be shorter legs at one end and taller legs at another.

Ms. Young responded that they do use a variable design in terms of actual height of the posts, but it won't differ more than perhaps a foot at the largest extreme. She said they attempt to maintain a 25-degree tilt throughout the totality of the project, there would only be minimal differences in the posts supporting the racking, and the overall height of the facility won't be any higher than 9-10 feet.

Mr. Keller said that obviously they are doing projects where CPG doesn't have to do this and plant the posts into the ground, most likely in concrete under the surface. He asked if there is a significant cost differential for CPG in the one approach versus the other.

Ms. Young said there is a bit of a cost difference here, and it does create additional costs. She believes the figure is maybe 5-6 cents higher per KW, which can add a significant cost to a project, but that has been worked into the proposal, and they are working through that with Dominion. She stated that it does create a slight additional cost, but because this project is fixed tilt, there are no motors associated with it, and it would be part of a single-axis tracking facility, there are some savings. She commented that there is a bit of a give and take.

Mr. Keller thanked Ms. Young and said he was actually asking this for future projects. He stated that this is a learning process for them, and many Commissioners have had significant concerns about topographic and contour manipulations of sites that in theory are going to be returned to their existing conditions in the future. He added that he thinks what CPG is showing is an opportunity for an alternative, and perhaps it can be applied in places adjacent to floodplains where there are hydrologic issues.

Ms. Young stated that the reason the plan has changed from what was shown on the website was because CPG identified the area where it is as minimal of a slope as possible. She said they are locating the panels on a flat high area, which is why there is a bit of a change in the site plan since the first design.

Mr. Randolph said he has four questions for Ms. Young and thanked her for her presentation. He said his first question is regarding methane vents, and he asked if any of the methane venting system already in place needs to be moved.

Ms. Young responded that they would not need to do that.

Mr. Randolph commented that the northwest quadrant shown in Attachment 2 is not receiving any panels, and he is curious as to why there were not any panels being placed there.

Ms. Young replied that CPG would love to maximize the benefit for Rivanna in terms of the income that would come from this project to offset their maintenance cost. She said typically they would look to maximize the area that is feasible; however, with this site, the available area in the northwest quadrant was minimal due to the higher slope in that area. She said additionally, the way the Virginia Clean Economy Act was drafted, they only procure facilities up to 3MW. She said they selected the three areas on the site that presented the best topography and available area, to get to that 3MW cap.

Mr. Randolph said that doesn't rule out in the future, they might potentially find it cost effective to engage with the northwest corner. He said he had a question about the construction staging that Ms. Young presented and asked if the timeline would have any impact on Rivanna's recycling operations, which occur on the weekends.

Ms. Young responded that it would not, and CPG had spoken with Rivanna about the most acceptable areas to place that equipment. She said that Rivanna had directed CPG to that point and felt that it wouldn't affect their operations.

Mr. Randolph said his other question is about cost, which is where the discussion ended with Commissioner Keller. He asked if it would be the case while this is more expensive for CPG to

actually install the system, he wondered if 30-40 years from now the cost would be easier to decommission the site. He said there are only concrete footings that need to be detached and heavy lifted, with the concrete taken out and broken down, and they would not have to pull them out of the ground—which would be a much more labor- and equipment-intensive process.

Ms. Young said that is a very good point and believes Mr. Randolph is correct in that the decommissioning of this facility will be much simpler than other facilities where there have been extensive pilings into the ground. She stated that because there would be no proposed land disturbance besides at the southwest part of the site where the interconnection is occurring, there would be less restoration needed.

Mr. Clayborne thanked Ms. Young for her expertise and said his question is more for his knowledge, as this is still a new project type for him. He said he is curious if there are any structural disadvantages for this installation method versus the traditional concrete footings. He said he is asking mainly just thinking through what climate change is doing in terms of natural disasters, and hurricanes stretching up this far are not uncommon now. He said that Ms. Young mentioned wind uplift and asked if they get the same structural characteristics with this approach. He asked again what disadvantages there are.

Ms. Young responded that the only disadvantage is a slightly reduced production potential. She said the biggest advantage to a tracking system where the panels tilt and follow the path of the sun is that it provides the greatest amount of solar energy production from the site. She stated that from a structural standpoint, she does not believe there would be any disadvantage from this. She said there must be a significant number of calculations to ensure there is a significant number of ballasts, and it is a common practice for rooftop systems as well. She said she would not expect any significant disadvantage.

Mr. Keller asked as a follow up to Mr. Clayborne's point if that means that it is CPG's feeling that when there is this type of installation, there can't be a movable panel.

Ms. Young said she has not yet seen a landfill application of a moveable panel. She said that would create additional weight, and the motors themselves introduce additional complexity in terms of making sure there are no emergency situations around methane because of an active motor and the chemicals involved. She said she has not seen any racking systems for landfill that have been developed with a tracker, or incorporating tracker technology, but that is not to say that it wouldn't be possible in the future.

Mr. Keller asked if CPG has done this type of installation in a non-landfill location. He asked if they have encountered an environmental situation where either county or jurisdictional policies precluded the manipulation of land, removal of topsoil, etc., necessitating this type of installation to be above ground.

Ms. Young said she does not believe CPG has encountered any environmental- or code-related reasons that have prevented them from doing a tracking system. She said they have done fixed-tilt systems on a non-landfill application, and the reason they may choose to do that is because single-axis trackers require long straight rows that are oriented east to west. She stated that if the site is a weird squiggly shape or there is not an opportunity to install the long corridors, they would choose a fixed-tilt system. She said that unless it was a brownfield or another landfill site, there have not been any environmental code reasons to choose one system over another.

Mr. Keller asked if Ms. Young knows of cases where this above-ground boot system has been used to support keeping the existing land contours and they have had the moveable tracking system as well.

Ms. Young said no, she has never seen a system that has these concrete boots and also tracking.

Mr. Bivins said he knows Ms. Young is aware there have been earthquakes in Virginia, and a number of the other projects the Commission has seen didn't have some of the peculiar aspects that this site has, where methane gas was not present. He said that he noticed on page five of the report that she said there will not be any onsite staff. He said that since there are these peculiar situations, and some things that have higher risk, he asked where staff would be and how quickly they could get to the site in the event there was an issue.

Ms. Young said that there are onsite staff that Rivanna employs for the maintenance of the site, and CPG will be doing training with them to visually detect if there are any issues. She said from a specific solar maintenance situation, CPG typically has a maintenance crew visit the site one to two times per year. She said they would be creating a long-term maintenance contract with a local company, and there are a number of solar maintenance facilities in the greater Albemarle/Charlottesville region. She said because of the large number of systems that are being proposed, a specific solar technician would be able to reach the site very quickly, as well as an electrician if there are any specialized technicians needed.

Mr. Bivins said that he understands there is an obligation to train the first responders, and he assumes that part of that training would be with the on-the-ground technician, or the servicing agency, and CPG would bring everyone together in a unified approach about some of the issues on this unique site.

Ms. Young agreed with that statement.

Mr. Bivins asked if there was anyone from the public who would like to speak.

There were none.

Ms. Young thanked the Commission again for their review of the application as well as the questions. She said she appreciates the discussion.

Mr. Bailey said he thinks this is a great project and it's awesome to see land used for solar that really has no other use, and to find a creative way to apply solar to it. He said he was in North Carolina the previous week, and it is the second-largest adopter of solar in the U.S. after California. He said on a per capita basis, the solar adoption is greater than California. He said Virginia currently has about 550MW installed and has 5200MW planned for installation, given a lot of these different legislative acts. He said from a Planning Commission standpoint in meeting with the director at North Carolina Clean Energy Tech on the NC State campus, the value is the connection to the grid. He said NC State has already seen some of their legacy sites upgrading panels to newer technology because they have better production capabilities.

Mr. Bailey said the director has assumed that once something goes into this land use category in special use, it is likely to stay there longer than 30 years because the cost and ability to get into the grid and the substation, and movement of electricity is the expensive driver of a project like this—not the individual cost of a panel. He said that he wanted to bring that up to the Commission

for consideration, as there is thought given to more solar coming in and what land it goes on, and that it likely could lock up that land for greater than 30 years.

Mr. Bivins reminded the Commission there are two topics needing motions: the SP and one for compliance with the comprehensive plan. He said he thought he saw Commissioners indicating they did not want to make the change in wording to add the word "professional."

Mr. Randolph moved to recommend approval of SP202100006 Ivy Landfill Solar Facilities with the conditions outlined in the staff report. Mr. Bailey seconded the motion, which passed unanimously (6-0).

Mr. Bivins said that this item would move forward to the Board of Supervisors.

Mr. Randolph moved that the Planning Commission find the proposed solar utility use to be in compliance with Albemarle County's Comprehensive Plan. Mr. Keller seconded the motion, which passed unanimously (6-0).

Mr. Bivins told Ms. Young that she has heard from the Commissioners on both the topic of the special use permit and on the compliance with the Comp Plan that they have approved those and will be sending that recommendation along to their Supervisors. He said that it was advised for Ms. Young being able to speak to the issues to the Board and perhaps change the information on the website. He said she has heard that they are fans of her company and project and look forward to the outcome of her presentation to the Board of Supervisors goes.

Ms. Young thanked the Commission again.

Committee Reports

There were no committee reports.

Review of Board of Supervisors Meeting: July 21, 2021

Mr. Rapp said there was a Board meeting on July 21, and the Board approved the Jefferson Mill Hydroelectric project. He stated that during the daytime of that meeting, there was a presentation from the plain divisions natural resource manager, Kim Biasioli on the Stream Health Initiative phase two project. He said it was a lengthy session with the Board, and he invited her to present an overview to the Planning Commission to keep them up to date as the project continues to move forward. He said that is scheduled as a work session the following week, and then there is a week off, then a public hearing scheduled on August 24.

Mr. Rapp said that initially the plan was for two public hearings, and now there would only be one. He said that for the sake of time and the Commissioners' schedules, he was thinking of moving the Stream Health Presentation to the 24th so there could be more at that meeting than just the one public hearing.

Mr. Bivins asked Mr. Rapp to remind the Commission what the other item would be.

Mr. Rapp said the other item is the Haup property day camp.

Mr. Keller asked if there would be two weeks without meetings.

Mr. Rapp confirmed this.

Mr. Bivins said so the next time the Commission would meet would be on August 24, and not the 10th.

Mr. Rapp confirmed this.

Mr. Rapp said it is going to be a busy fall and he will be bringing forward updates and materials to share on the Rivanna River Corridor Plan. He said they hoped to get to a public hearing this month, but will postpone that, but will still share the info with the Commission and the Board a bit later at that August meeting as well as in early September.

Mr. Bivins said they are good with the scheduling change and will plan to adjourn to the August 24th date.

Old/New Business

Mr. Keller said he would like to follow-up to the comments he and Mr. Randolph were making on the ag-forest and whether they could memorialize that as some sort of recommendation that the requested information start to be part of these presentations. He said he knows that Mr. Clark has done that sometimes in the past, but he thinks that all of these are important, especially as there are starting to be these discussions of the rural versus development areas, the percentages of each, and the value of land use taxation. He said he thinks it would be helpful for the Commission to see that and doesn't think it would be onerous to collect that information.

Mr. Keller said not to undermine Mr. Rapp's business, but he wonders if this is the kind of Bill Fritz couple-of-hour review of the latest mounting technologies and whether there are ways that the County can have more protection of the existing Piedmont contours. He noted that there are starting to be technologies other than this heavy-handed civil engineering, significant land movement, soil movement, stacking of topsoil, and creating detention ponds for solar farms. He said it seems to him if they are planting them in the rural areas as agriculture, there is a way they can be more sympathetic as this one by definition had to be. He said that since there are only three at this point, and the last one was pretty significant in the contour manipulation, he wondered if there could be a bit more explanation by staff and senior staff and then a report, and perhaps there could be a policy change that would put other constraints in. He said he understands there could be some cost differences, but Mr. Randolph also pointed out that there could be some significant future savings as well, and he is not sure how the long-term cost is calculated.

Mr. Rapp said he appreciates Mr. Keller's comments and said Mr. Fritz and Mr. Clark have been reviewing best practices and what will need to be done as far as policy and ordinance requirements go. He said he believes they will have some good opportunities to dive into that with the ordinance overall, to be coming over the next few years. He said that would be one of the more pressing items, due to the number of applications already being discussed internally.

Mr. Keller recalled that there were 16 locations where there are substations adjacent to agriculturally zoned land in the County that would lend themselves to these. He noted that they have seen two so far of the 16, and he thinks the adjacent ones would be coming forward very quickly—so it would be good to speed up the operation if possible.

Mr. Bailey said a lot of agricultural/forestal lands had been planted as they were getting harvested, and they are being converted to solar. He said it usually takes 20-30 years to grow new trees, and those areas are being transitioned to solar farms.

Mr. Bivins said he would like to take a moment before they go away to thank the anonymous individual who sent some of the Commissioners the *Color of Law* book by Richard Rothstein, to let that person know that a number of colleagues have already read it and are digesting it, and it is appreciated.

Items for Follow-up

There were no items for follow-up.

Adjournment

At 7:42 p.m., the Commission adjourned August 24, 2021, Albemarle County Planning Commission meeting, 6:00 p.m. via electronic meeting.



Charles Rapp, Director of Planning

Approved by Planning Commission
Date: 8/24/2021
Initials: CSS

(Recorded and transcribed by Carolyn S. Shaffer, Clerk to Planning Commission & Planning Boards and transcribed by Golden Transcription Services)